U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548
Comptroller General
of the United States

Decision

Matter of: SkyMate, Inc.--Reconsideration

File: B-424591.3

Date: November 9, 2026

Gerald Tugade, for the protester.
Dozier Gardner, Esq., and Rhina Cardenal, Esq., Department of Commerce, for the agency.
Emily R. O'Hara, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration of a prior decision is denied where that decision did not contain any material errors of fact or law.

DECISION

SkyMate, Inc., a small business of Reston, Virginia, requests that we reconsider our decision, *SkyMate, Inc.*, B-424591.2, Sept. 17, 2026, dismissing the protest of an award to Directional Command, LLC, a small business of Tampa, Florida, under request for quotations (RFQ) No. 1305M326Q0093, issued by the Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), for vessel monitoring system units. SkyMate argues that our decision contained errors of fact that warrant modification of our prior decision.

We deny the request.

BACKGROUND

On April 21, 2026, the agency issued the solicitation, pursuant to Part 12 of the Revolutionary Federal Acquisition Regulation (FAR) Overhaul (RFO) to establish a fixed-price Blanket Purchase Agreement (BPA) and to simultaneously issue a call order when it established the BPA. Req. for Dismissal, exh. 1, RFQ at 32-33.[1] The

[1] Unless noted otherwise, references are to the record in the B-424591.2 protest. Our citations use the Adobe PDF pagination of documents in the record.

solicitation provided that the BPA would be established with the vendor whose quotation was the most advantageous to the government, considering two factors: technical acceptability and price. *Id.* at 35.

On May 14, the agency informed SkyMate that its quotation had not been selected for award, and SkyMate requested additional information concerning the agency's evaluation. Req. for Dismissal, exh. 2, Agency Email at 43. On June 15, the agency provided the protester with a brief explanation regarding its evaluation. *Id.* at 40. In that brief explanation, the agency noted concerns with SkyMate's technical approach. *Id.* SkyMate filed an initial protest with our Office on June 19, alleging that the agency's evaluation of SkyMate's technical approach was unreasonable because the agency applied unstated evaluation criteria in its evaluation. Req. for Dismissal at 2. Subsequently, the agency elected to take voluntary corrective action by reevaluating quotations and issuing a new award decision; we dismissed the protest as academic on July 14. *SkyMate, Inc.,* B-424591, July 14, 2026 (unpublished decision).

The agency completed the reevaluation, and on August 6, NOAA notified SkyMate that its quotation, once again, had not been selected for award. Req. for Dismissal, exh. 6, Unsuccessful Vendor Notice at 55. SkyMate filed its second protest with our Office on August 14, again alleging that the agency's evaluation of the protester's quotation was unreasonable and that, as a result, the agency's source selection decision was flawed. Protest at 3-4. Specifically, SkyMate alleged:

> The prior award rationale identified considerations that SkyMate contends were outside the disclosed evaluation framework, including course and speed reporting format, customer-support responsiveness, and e-logbook overage charges. If NOAA again relied materially on those same considerations during the corrective-action reevaluation, without those considerations being reasonably encompassed by the RFQ's stated criteria, the new evaluation would remain inconsistent with FAR 13.106-2(a)(2) and the RFQ.
>
> Conversely, if NOAA used a materially different rationale during corrective action, the contemporaneous record should demonstrate what criteria were applied, how they were applied to both vendors, and how the resulting comparison supported the August 6 award decision.

Protest at 3.

On August 20, the agency requested our Office dismiss the protest. Req. for Dismissal at 1. The agency argued that the protest grounds were speculative and lacked a valid basis of protest. *Id.* at 3. We dismissed the protest on September 17, finding SkyMate failed to provide factual grounds that were legally sufficient to support its protest. *SkyMate, Inc.,* B-424591.2, Sept. 17, 2026, at 4. Specifically, our decision noted that "the protester merely speculates, without any supporting basis, that the agency may have reevaluated proposals in a manner consistent with the prior evaluation." *Id.* at 3.

The decision further stated that "SkyMate's bare allegations, made without any supporting details or documentation, amounts to no more than speculation which does not satisfy the requirements of our regulations for a legally sufficient protest." *Id.* SkyMate filed a request for reconsideration on the same day, September 17, and followed it with a "supplemental request for reconsideration" on September 21.

DISCUSSION

SkyMate argues that our decision dismissing the B-424591.2 protest contains several factual errors. Req. for Recon. at 4; Supp. Req. for Recon. at 3-4. We have reviewed each alleged error and conclude that none provide a basis to reverse or modify our earlier conclusions.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must set out the factual and legal grounds upon which reversal or modification of a decision is deemed warranted, specifying any errors of law made, or information not previously considered. 4 C.F.R. § 21.14(a); *Department of Just.; Hope Village, Inc.--Recon.*, B-414342.5, B-414342.6, May 21, 2019, at 3. We will reverse a decision upon reconsideration only where the requesting party demonstrates that the decision contains a material error of law or fact; that is, but for the error, our Office would have likely reached a different conclusion as to the merits of the protest. *Mission Analytics, LLC--Recon.*, B-423980.2, B-423980.4, April 1, 2026, at 4.

Brief Explanation

The requester first contends that our decision contains a factual error regarding SkyMate's request for a brief explanation of award. Req. for Recon. at 3. In the decision, we noted:

> On August 6, the protester received notice that its lower-priced quotation had not been selected because it did not provide the best value to the government. Req. for Dismissal, exh. 6, Unsuccessful Vendor Notice at 55. Thereafter*, without requesting a brief explanation from the agency*, SkyMate filed this protest challenging the agency's reevaluation of quotations, the reaffirmed selection of Directional Command, and the issuance of the funded BPA call order.

SkyMate, Inc., B-424591.2, Sept. 17, 2026, at 2 (emphasis added). In this connection, footnote 2 of the decision also noted that "[a]lthough the protester had the opportunity to request a brief explanation of the agency's reevaluation of quotations . . . it does not appear to have chosen to do so following completion of the agency's corrective action." *Id.* at 3 n.2.

The requester argues that the statement regarding its failure to request a brief explanation "is not correct." Req. for Recon. at 1. In support of this assertion, SkyMate, for the first time, presents emails between SkyMate and the agency showing that

SkyMate requested a brief explanation of the award decision on August 7. Req. for Recon., exh. 3, Req. for Brief Explanation of Award at 1.

As an initial matter, SkyMate, by its own admission, acknowledges that the emails between SkyMate and NOAA "were in SkyMate's possession during the protest," but "were not submitted to [GAO]." Req. for Recon. at 2. Parties that withhold or fail to submit all relevant evidence, information, or analyses for our consideration do so at their own peril. *Department of Just.; Hope Village, Inc.--Recon.*, *supra* at 6. Failure to make all arguments or submit all information available during the course of the initial protest undermines the goals of our bid protest forum--to produce fair and equitable decisions based on consideration of all parties' arguments on a fully developed record--and cannot justify reconsideration of our prior decision. *Timberline Helicopters, Inc.--Recon.,* B-414507.2, Aug. 1, 2017 at 2.

More importantly, however, is the fact that the misstatement is not material to the dismissal decision. The requester, itself, acknowledges this when SkyMate states, in relation to the text in footnote 2 of our decision, "[SkyMate] does not contend that correcting footnote 2 cures, by itself, the pleading defects the Office identified in the protest as filed," and that SkyMate "recognizes that the [GAO] may conclude that the dismissal would have followed on either version of the facts." Req. for Recon. at 5. That is, even if SkyMate requested and received a brief explanation of award, the fact remains, at the time the protest was filed, SkyMate had not provided sufficient information to support its allegation that the agency unreasonably evaluated the firm's quotation. As such, because any modification of the factual misstatement would not impact the outcome of the decision, we find no basis to grant SkyMate's request. *AeroSage, LLC--Recon*, B-417529.3, Oct. 4, 2019, at 2 n.2.

Unsuccessful Vendor Notice

The requester next argues that our decision incorrectly stated that SkyMate received the agency's post-corrective action award memorandum. Supp. Req. for Recon. at 3. In our dismissal decision, we noted that SkyMate did not meaningfully respond to the agency's request for dismissal argument concerning the sufficiency of its protest grounds. *SkyMate, Inc.,* B-424591.2, Sept. 17, 2026, at 3. More specifically, the decision included the following:

> For example, the protester contends that the agency's use of unstated evaluation criteria in its reevaluation is supported by NOAA's dismissal request because the agency failed to "state whether the June 15 [*i.e.*, the agency's brief explanation following the initial selection] considerations were removed from the reevaluation, were again used as material discriminators, or were linked to particular disclosed criteria *in the new award decision memorandum [i.e., the August 6 notice for reaffirmed selection]*." Resp. to Req. for Dismissal at 2. According to the protester, the agency should have provided "the new award decision memorandum or other contemporaneous document that would resolve the issue." *Id.*

> at 3. Having failed to do so, SkyMate seeks to have our Office draw a favorable inference as to the sufficiency of its allegation that the agency may have applied unstated evaluation criteria in its reevaluation. We decline to do so.

Id. (emphasis added).

SkyMate contends that our decision conflated the agency's unsuccessful vendor notice --which SkyMate received--with NOAA's award decision memorandum--which was absent from the record. Supp. Req. for Recon. at 3. In this connection, the requester contends that "the document whose absence was at issue has been misidentified, and that the Office may wish to consider the point afresh on a corrected understanding of what was and was not in the record." *Id.*

The agency's award memorandum was not included in the underlying record. However, the new award decision was referenced in the unsuccessful vendor notice that NOAA sent to SkyMate on August 6. Req. for Dismissal, exh. 6, Unsuccessful Vendor Notice at 55. Our decision's inclusion of the bracketed text served as a way to clarify and differentiate between the pre-corrective action and post-corrective action evaluations. Even assuming the bracketed material referencing the August 6 notice was inaccurate, the gravamen of SkyMate's argument remains the same--*i.e.*, the agency's post-corrective action reevaluation suffers from the same flaws as the agency's pre-corrective action evaluation.

Notwithstanding SkyMate's belief that the decision's reference to the "the August 6 notice for reaffirmed selection" represented a factual inaccuracy, we find no basis to reverse or modify our earlier decision, because any factual inaccuracy is not material to the underlying dismissal decision. As noted above, we will reverse a decision upon reconsideration only where the requesting party demonstrates that the decision contains a material error of law or fact; that is, but for the error, our Office would have likely reached a different conclusion as to the merits of the protest. *Mission Analytics, LLC--Recon.*, B-423980.2, B-423980.4, Apr. 1, 2026, at 4.

Here, the quoted text of the decision only serves to highlight that even when responding to NOAA's dismissal request, SkyMate did not present meaningful information to support its allegations, instead it relied on the lack of information in NOAA's request for dismissal to support its allegation that the agency's reevaluation was unreasonable. As our underlying decision explained, it is the protester--not the agency--that has the burden of presenting sufficient evidence to establish its protest ground. *GovernmentCIO, LLC*, B-418363 *et al.*, Mar. 10, 2020, at 11. Our regulations require that protests include a detailed statement of the legal and factual grounds of protest and that the grounds be legally sufficient. 4 C.F.R. § 21.1(c)(4) and (f). Accordingly, protesters are required to provide, at a minimum, credible allegations that are supported by evidence and are sufficient, if uncontradicted, to establish the likelihood of the protester's claim of improper agency action. *Warfighter Focused Logistics, Inc.*, B-423546; B-423546.2, Aug. 5, 2025, at 4.

In this instance, even if we were to remove the entirety of the above-referenced quoted example from the decision--which discussed actions by the protester that occurred *after* the filing of its protest--the fact remains that, in filing its protest, SkyMate failed to provide sufficient information to support its allegations. Consequently, we do not find that our prior decision contained a material mistake of fact that warrants reversal of our dismissal of the protest. *Department of Just.; Hope Village, Inc.--Recon.*, *supra* at 6.

Consideration of Conditional Language Clarification

Lastly, the requester takes issue with the fact that GAO's decision did not address SkyMate's clarification regarding its protest allegations. Supp. Req. for Recon. at 4. In its request for dismissal, NOAA contended that SkyMate's protest allegations were speculative, in part, because the allegations were phrased using conditional language. For example, the agency asserted that "SkyMate then speculates that '**[i]f** NOAA again relied materially on those same considerations during the corrective-action reevaluation, without those considerations being reasonably encompassed by the RFQ's stated criteria, the new evaluation would remain inconsistent.'" Req. for Dismissal at 5 (citing Protest at 3). In response to the dismissal request, SkyMate explained that its use of conditional language "was not intended to disclaim the allegation," and took the opportunity to "clarif[y] that its core allegation is affirmative: NOAA's post-corrective evaluation continued to rely materially on the June 15 operational considerations without those considerations being disclosed as separate evaluation criteria or adequately connected to a disclosed criterion." Resp. to Req. for Dismissal at 3.

There is no evidence in the record to support the requester's contention that GAO failed to consider its revised arguments. Although the agency's request for dismissal specifically draws attention to the protest's use of conditional language to support NOAA's argument that the protest allegations were speculative, our decision characterizes SkyMate's argument in the affirmative: "The protester argues that NOAA's reevaluation of quotations and the resulting selection decision following voluntary corrective action were flawed." *SkyMate, Inc.,* B-424591.2, Sept. 17, 2026, at 1. The decision does not highlight the protester's use of conditional language to support the finding that the protest was legally and factually insufficient. Instead, our decision rests on SkyMate's failure to support its allegations with "details or documentation." *Id.* While SkyMate may disagree with this finding, such disagreement does not demonstrate that the finding was erroneous. *Veda, Inc.--Recon.*, B-278516.3, B-278516.4 July 8, 1998, at 4.

The request for reconsideration is denied.

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General Counsel